

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

H.B., by and through PATRICIA F., as her)
Parent and legal guardian, and)
PATRICIA F., individually,)
Plaintiff,) Civil Action No. 19-1326
v.)
PITTSBURGH PUBLIC SCHOOLS,)
DISTRICT, THE CHILDREN'S)
INSTITUTE of PITTSBURGH, PAUL) District Judge Cercone
K. BROWN INC., t/d/b/a/)
PROFESSIONAL LIMOUSINE)
SERVICE, and LAVALLE TUCKER,) Magistrate Judge Lenihan
Individually,)
Defendants.) ECF Nos. 39, 41, 50 & 55

MEMORANDUM ORDER

Plaintiff H.B. (“Minor Plaintiff”) by and through Patricia F. (“Plaintiff Mother”), as her parent and legal guardian, and Patricia F., individually (collectively “Plaintiffs”), filed this civil action on October 16, 2019. (ECF No. 1.) The case was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. §636(b)(1), and Local Rules of Court 72.C and 72.D.

The Magistrate Judge's Report and Recommendation (ECF No. 55), filed on May 13, 2020, recommended that that the Motion to Dismiss filed by Defendant the Children's Institute of Pittsburgh (ECF No. 39) be granted. It further recommended that the Motion to Dismiss filed by Defendant Pittsburgh Public Schools (ECF No. 41) be granted in part and denied in part and that it be granted as it related to Plaintiff's § 1983 claim and denied as to Plaintiffs' ADA claim. It was also recommended that the Motion to Dismiss filed by Defendant Paul K. Brown Inc., t/d/b/a Professional Limousine Service (ECF No. 50) be granted. The parties were informed

that in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72.D.2 of the Local Rules of Court, that they had fourteen (14) days to file any objections, and that unregistered ECF users were given an additional three (3) days pursuant to Federal Rule of Civil Procedure 6(d). Objections were due on May 27, 2020 for registered ECF Users and on June 1, 2020 for unregistered users. As to registered users, only Defendant Pittsburgh Public Schools filed objections by the deadline.

After review of the pleadings, documents in the case, and Objections, together with the Report and Recommendation, the following Order is entered:

AND NOW, this 2nd day of June 2020,

IT IS HEREBY ORDERED that the Motion to Dismiss filed by the Children's Institute of Pittsburgh (ECF No. 39) is **GRANTED**.

IT IS FURTHER ORDERED that the Motion to Dismiss filed by Defendant Pittsburgh Public Schools (ECF No. 41) is **GRANTED IN PART AND DENIED IN PART**. It is **GRANTED** as it relates to Plaintiff's § 1983 claim and **DENIED** as to Plaintiffs' ADA claim.

IT IS FURTHER ORDERED that the Motion to Dismiss filed by Defendant Paul K. Brown Inc., t/d/b/a/ Professional Limousine Service (ECF No. 50) is **GRANTED**.

IT IS FURTHER ORDERED that the Report and Recommendation (ECF No. 55) of Magistrate Judge Lenihan, dated May 13, 2020, is adopted as the Opinion of the Court.

BY THE COURT

s/ David S. Cercone
Honorable David S. Cercone
United States District Judge

cc: Lavalle Tucker
Inmate NV5335
P.O. Box 33028
St. Petersburg, FL 33733